

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY

LOIS JEAN WORKMAN,

Plaintiff,

v.

CASE NO. 5:15-cv-15513

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

Currently pending before the court is Plaintiff's Brief in Support of Judgement on the Pleadings (ECF No. 9) and Defendant's Motion to Remand (ECF No. 13). This case was referred to this United States Magistrate Judge by standing order to consider the pleadings and evidence, and to submit proposed findings of fact and recommendation for disposition, all pursuant to 28 U.S.C. § 636(b)(1)(B). Defendant moves this Court for the entry of an order remanding this case to the Commissioner.

Defendant represents that on remand, the Commissioner will reevaluate Claimant's residual functional capacity, including further consideration of the opinions of State agency reviewing physician Fulvio Franuyutti, M.D., treating physician William Browning, Jr., D.O., and State agency consulting physician Kip Beard, M.D., and provide rationale with specific references to evidence of record in support of the assessed limitations pursuant to Social Security Ruling 96-8p. Defendant asserts that "If warranted, the ALJ [Administrative Law Judge] will obtain medical advisor testimony to determine whether onset can reasonably be inferred consistent with the

requirements of Social Security Ruling 83-20” (ECF No. 13). Defendant represents that the ALJ will give Claimant another opportunity “for a hearing, receive any relevant evidence, take any steps needed to complete the administrative record and issue a new decision.” Defendant represents that Claimant’s counsel has no objection to the remand.

The court proposes that the District Court find that Defendant has shown good cause for a remand pursuant to the fourth sentence of 42 U.S.C. § 405(g). It is hereby respectfully **RECOMMENDED** that the District Court **GRANT** Defendant’s Motion to Remand (ECF No. 13), reverse the final decision of the Commissioner, remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g) and **DISMISS** this matter from this Court’s docket.

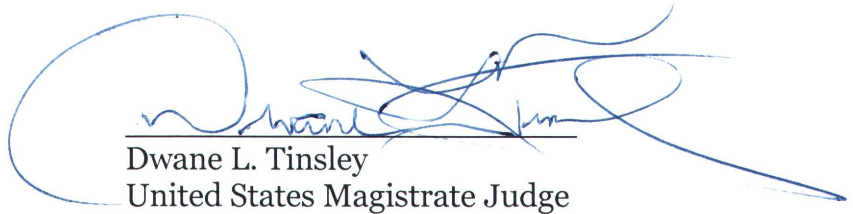
The parties are notified that this Proposed Findings and Recommendation is hereby **FILED**, and a copy will be submitted to the District Judge Irene C. Berger. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, the parties shall have three days (mailing/service) and then ten days (filing of objections) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Wright v. Collins*, 766 F.2d 841, 846 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d

91, 94 (4th Cir. 1984). Copies of such objections shall be served on opposing parties, Judge Berger, and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to counsel of record.

Enter: January 6, 2017



Dwane L. Tinsley
United States Magistrate Judge